

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BENJAMIN ALBIZZATTI,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO. _____
v.)	
)	
MICHAEL DAVID SMITH and)	
ATLAS VAN LINES, INC.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW defendants and, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this notice of removal within the time prescribed by law, showing the Court as follows:

1.

On November 2, 2021, plaintiff filed a complaint in the State Court of Gwinnett County, Georgia Civil Action No. 21-C-07842-S5, which county is within the Atlanta Division of the Northern District of Georgia.

2.

A true and correct copy of all process, pleadings, and orders filed in connection with this action is attached hereto as Exhibit A. Defendants have no

knowledge of any other process, pleadings, or orders served in connection with this action, other than those attached hereto.

3.

This Court has original jurisdiction over the above-referenced case under 28 U.S.C. § 1332.

4.

There is complete diversity among the parties. *See* 28 U.S.C. § 1441(b)(2).

5.

Plaintiff is a citizen of the State of Georgia. (Compl. ¶ 1.)

6.

Mr. Smith is a citizen of Florida. (Compl. ¶ 2.)

7.

Atlas Van Lines, Inc. is a corporation existing under the laws of Delaware with its principal place of business in Indiana. (Compl. ¶ 3.) Accordingly, it is a citizen of Delaware and Indiana for purposes of diversity jurisdiction. 28 U.S.C. § 1332(c)(1).

8.

This notice of removal is filed within the time period prescribed by 28 U.S.C. § 1446(b)(3).

9.

Defendants make a plausible allegation that plaintiff seeks recovery in an amount in excess of \$75,000, exclusive of interest and costs. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S.Ct. 547, 555 (2014). Specifically, plaintiff seeks "past, present, and future medical expenses; past, present, and future pain and suffering; and any other damages recoverable at law." (Compl. Prayer for Relief.) Initially, plaintiff listed damages of \$7,864.95 in his complaint and therefore, the case did not appear to be removable based on the amount in controversy. (Compl. ¶ 39.) Defendants served discovery requests to determine the amount in controversy and, ***on June 11, 2022***, received information from plaintiff's counsel that ***plaintiff's medical bills are "now roughly \$63,000."*** Defense counsel subsequently inquired as to whether plaintiff's damages exceed \$75,000 for purposes of removing the case to federal court; and ***plaintiff's counsel confirmed the amount in controversy exceeds \$75,000 and he will not oppose removal of the case to federal court.*** (See emails by and between counsel; a true and correct copy is attached as Exhibit B.)

10.

The undersigned has read this notice of removal and to the best of the undersigned's knowledge, information, and belief, formed after reasonable inquiry, it is well-grounded in fact; is warranted by existing law; and is not interposed for

any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, this notice of removal having been filed, said action shall proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, and no further proceedings shall be held in said case in the State Court of Gwinnett County.

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/s/ Matthew P. Stone

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing *NOTICE OF REMOVAL* to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants and mailed by United States Postal Service, first-class, postage prepaid, a paper copy of the same document to counsel of record who are non-CM/ECF participants. Counsel of record is:

Drew Gilliland, Esq.
Nick Schnyder Law Firm, LLC
351 Atlanta Street SE
Marietta, GA 30060

This 11th day of July, 2022.

/s/ Matthew P. Stone

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Georgia Bar No. 684513

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